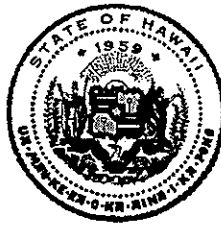


NEIL ABERCROMBIE  
GOVERNOR



STATE OF HAWAII  
**DEPARTMENT OF PUBLIC SAFETY**  
919 Ala Moana Blvd. 4<sup>th</sup> Floor  
Honolulu, Hawaii 96813

JODIE F. MAESAKA-HIRATA  
DIRECTOR

MARTHA TORNEY  
Deputy Director of  
Administration

JOE W. BOOKER, JR.  
Deputy Director  
Corrections

KEITH KAMITA  
Deputy Director  
Law Enforcement

No. \_\_\_\_\_

TESTIMONY ON HOUSE BILL 2313 HD1  
A BILL FOR AN ACT RELATING TO RESISTING ARREST  
Jodie F. Maesaka-Hirata, Director  
Department of Public Safety

House Committee on Judiciary  
Representative Gilbert S.C. Keith-Agaran, Chair  
Representative Karl Rhoads, Vice Chair

Thursday, February 23, 2012, 2:00 PM  
State Capitol, Room 325

Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Committee:

The Department of Public Safety supports House Bill 2313 HD1 that proposes to make resisting arrest in the first degree a felony for attempting to deprive a law enforcement officer of their firearm. House Bill 2313 HD1, if passed would make resisting arrest in the first degree a Class C Felony and may act as a deterrent to an individual thinking of resisting arrest by attempting to take a law enforcement officer's weapon.

Thank you for the opportunity to testify on this matter.



## **Office of the Public Defender State of Hawaii**

**Timothy Ho, Chief Deputy Public Defender**  
**Testimony of the Office of the Public Defender,**  
**State of Hawaii to the House Committee on Judiciary**



February 23, 2012, 2:00 p.m.

RE: H.B. 2313, HD1: Relating To Resisting Arrest

Chair Keith-Agaran and Members of the Committee:

This measure would create the offenses of resisting arrest in the first and second degree. If during the course of a lawful arrest, a suspect attempted to remove a law enforcement officer's firearm, he would be charged with resisting arrest in the first degree, a class C felony. Resisting arrest would be reclassified as resisting arrest in the second degree, a misdemeanor.

The Office of the Public Defender opposes H.B. 2313, HD 1.

Previous testimony in support of this measure suggests the deterrent effect of making resisting arrest in the first degree a felony offense. They write that a suspect will think twice about reaching for an officer's firearm if this bill is passed.

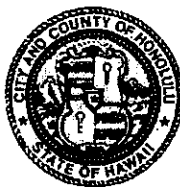
The deterrent effect of enacting stiff penalties is overstated, and in this instance, a fallacy. A person who resists arrest is usually drunk, under the influence of drugs, mentally ill and/or emotionally disturbed. A felony resisting arrest law will not cause them to stop and think twice before deciding to disobey a law enforcement officer. They are angry, high or out of their mind, and thus incapable of rational thought.

A law enforcement officer's job is not without perils. Sometimes they are put in situations where they must take a life, and in other situations, give their life. But it is their job, and they receive proper training and equipment to help ensure their safety. Their compensation and retirement package, which is unlike that of other government employees, reflect the dangerous nature of their job. A law enforcement officer's firearm is holstered on his belt. During a scuffle, his sidearm, which protrudes from his hip, may accidentally be hit, touched or grabbed by the suspect. We are concerned that officers will be quick to say that the suspect reached for their gun, and charge the felony rather than a misdemeanor.

We oppose H.B. 2313, HD1. Thank you for the opportunity to comment on this bill.

POLICE DEPARTMENT  
**CITY AND COUNTY OF HONOLULU**

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813  
TELEPHONE: (808) 529-3111 · INTERNET: [www.honolulu-pd.org](http://www.honolulu-pd.org)



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CHIEF

DAVE M. KAJIHIRO  
MARIE A. MCCAULEY  
DEPUTY CHIEFS

OUR REFERENCE LH-NTK

February 23, 2012

The Honorable Gilbert S. C. Keith-Agaran, Chair  
and Members  
Committee on Judiciary  
House of Representatives  
State Capitol  
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Members:

Subject: House Bill No. 2313, H.D. 1, Relating to Resisting Arrest

I am Lester Hite, Captain of the Criminal Investigation Division of the Honolulu Police Department, City and County of Honolulu.

The Honolulu Police Department supports House Bill No. 2313, H.D. 1, Relating to Resisting Arrest.

Law enforcement officers often encounter criminal suspects who avoid arrest by threatening or using physical force against the police officer to avoid apprehension. In some instances, suspects have grabbed the officer's firearm in an attempt to disarm the police officer.


The Honolulu Police Department believes that attempting to gain control over an officer's firearm is a very serious offense, and the suspect should be charged with a felony in those incidents.

The Honolulu Police Department urges you to support House Bill No. 2313, H.D. 1, Relating to Resisting Arrest.

Thank you for the opportunity to testify.

APPROVED

Sincerely,

  
LOUIS M. KEALOHA  
Chief of Police

  
LESTER HITE, Captain  
Criminal Investigation Division



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Honolulu, Hawaii 96813-2991

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[www.hgea.org](http://www.hgea.org)

The Twenty-Sixth Legislature, State of Hawaii  
House of Representatives  
Committee on Judiciary

Testimony by  
Hawaii Government Employees Association  
February 23, 2012

H.B. 2313, H.D. 1 - RELATING TO  
RESISTING ARREST

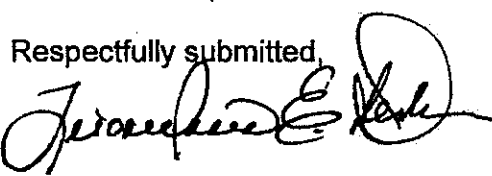
The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of H.B. 2313, H.D. 1, which amends Chapter 710, HRS by making the removal or an attempt to remove a firearm from a law enforcement officer a first-degree offense and a class C felony. The current penal code does not adequately address situations where an offender takes or attempts to take a law enforcement officer's firearm.

The HGEA represents more than 400 law enforcement officers who work as Deputy Sheriffs, Conservation and Resource Enforcement Officers, Harbor Patrol Officers, Narcotics Enforcement Investigators and Investigators with the various County Prosecutors. This type of situation where a suspect attempts to or actually removes a firearm presents a clear danger to law enforcement officers because the gun can discharge killing or seriously wounding the officer or even innocent bystanders.

We agree that elevating the offense for resisting arrest where a person intentionally prevents a law enforcement officer from exercising his or her official authority by removing or attempting to remove the officer's firearm to a class C felony will serve as a deterrent and create a safer working environment for law enforcement personnel throughout the State of Hawaii.

H.B. 2313, H.D. 1 also establishes the existing misdemeanor offense of resisting arrest by using or threatening to use physical force against a law enforcement officer as a second-degree offense.

Thank you for the opportunity to testify in support of H.B. 2313, H.D. 1.

Respectfully submitted,  
  
Leiomalama E. Desha  
Deputy Executive Director